

(S.J.R. 7)

CONSTITUTIONAL AMENDMENT A

JOINT RESOLUTION REGARDING QUALIFICATIONS OF STATE TAX COMMISSION MEMBERS

2014 GENERAL SESSION

SENATE VOTE: 26-2-1

HOUSE VOTE: 66-5-4

BALLOT TITLE

☐ FOR

☐ AGAINST

Shall the Utah Constitution be amended to modify qualifications for members of the State Tax Commission?

IMPARTIAL ANALYSIS

Current provisions of the Utah Constitution

The Utah Constitution directs the State Tax Commission to administer and supervise Utah's tax laws. The Constitution states that the State Tax Commission consists of four members, appointed by the governor with the consent of the Utah Senate. The Utah Constitution also states that no more than two of those four commission members may belong to the same political party. The Constitution does not provide any other qualifications for members of the State Tax Commission.

Effect of Constitutional Amendment A

Constitutional Amendment A removes the limitation that no more than two members of the State Tax Commission may be appointed from the same political party. The Amendment requires State Tax Commission members to meet qualifications as set in statute but allows the Governor to appoint a State Tax Commission member without considering the member's political party affiliation. Under the Amendment, it is possible for all or a majority of State Tax Commission members to be from the same political party.

Effective Date

If approved by voters, Constitutional Amendment A takes effect January 1, 2015.

Fiscal Impact

Constitutional Amendment A has no fiscal impact.

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CONSTITUTIONAL AMENDMENT A (CONTINUED)

ARGUMENT IN FAVOR

Utah's four State Tax Commissioners administer and supervise the state's tax laws. With the assistance of the Executive Director, administrative law judges and other support staff, Tax Commissioners serve both adjudicative and administrative functions. The Commissioners have the authority to make administrative rules on tax matters and issue rulings on appeals that come before them. In other words, they are the court of original jurisdiction for tax matters and they perform as judges on people's tax issues.

The Utah Constitution currently requires the governor to appoint Tax Commissioners based on their political party affiliation.

Voting YES on this Constitutional Amendment will ensure that the governor is able to appoint the most qualified people available as Tax Commissioners. The Amendment eliminates the provision in the Utah Constitution which limits membership on the Commission to no more than two members from the same political party.

Functioning as a judge is difficult to reconcile with a partisan appointment; Utah's Tax Commissioners should be selected based on academic qualification and relevant experience.

Vote yes on Amendment A to allow for a non-partisan and professional administration of the tax laws.

Val Oveson
Utah State Tax Commissioner, 1993-1998

Marc Johnson
Utah State Tax Commissioner, 2000-2012

Mark Buchi
Utah State Tax Commissioner, 1983-1986

REBUTTAL TO ARGUMENT IN FAVOR

The argument for SJR7 offers no evidence that the current balanced approach to placing people on the State Tax Commission is not working for Utah and should be changed.

Unless you believe that one political party has a monopoly on qualified individuals. The facts are that Utahns with the necessary academic qualifications and relevant experience can be found in multiple political parties.

Make no mistake, the stakes are high for every Utahn. Millions of dollars are on the line when the Tax Commission hears cases from large corporations protesting their tax assessments, and the decisions made by Tax Commissioners on those cases affect your property taxes, whether you know it or not.

With so much on the line, balancing Tax Commissioner's politics is the best way to make sure that Tax Commission decisions don't favor powerful groups alone. Ensuring that no one party dominates the makeup of the commission helps keep politics out of tax policy.

Don't abandon constitutional checks and balances that are working to protect average Utah taxpayers. Vote NO on this constitutional amendment.

Representative Joel K. Briscoe
Utah House of Representatives

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CONSTITUTIONAL AMENDMENT A (CONTINUED)

ARGUMENT AGAINST

Constitutions are written to protect the people who create them. S.J.R. 7 removes an important check and balance in Utah's Constitution – a key provision that protects all Utahns.

There's a key historical reason as to why Utah's Tax Commission is enshrined in our State's Constitution: in the 1930s Utahns embraced a change to that document because they recognized the importance of protecting the Tax Commission from partisan politics and the power of big businesses.

The work of Tax Commission members is actually more interesting than it may sound. They spend most of their time acting as judges—reviewing cases brought by businesses and individuals who disagree with the amount of taxes that the government has told them they must pay. A quick look at those cases will show that the vast majority of Tax Commission members' time is spent on cases brought by some of the largest corporations in the state, not average Utahns.

The teams of private lawyers that present these cases make complex arguments about why their employers should pay lower taxes. They look for loopholes so that big businesses can pay less. Who do you think picks up the slack when this side wins cases at the Tax Commission?

That's right—all the rest of us.

We wouldn't trust opinions coming from a U.S. Supreme Court in which one political party appointed all the justices. What if all the Tax Commissioners belonged to the same party? The people might not see their opinions as being balanced.

Guaranteeing that people from more than one political party sit on the Tax Commission is a constitutional check on power. It prevents this powerful government agency from being dominated by a single ideology. When one party dominates most of the state's elected offices, this provision has kept and will help keep the Tax Commission politically neutral, which will benefit and protect the citizens of Utah.

Thomas Jefferson admonished us to "Let the eye of vigilance never be closed." Let us apply our vigilant eye to this proposed amendment.

'If it ain't broke, don't fix it,' is a good general rule when it comes to voting on changes to the Constitution and should be applied to this proposed amendment. There is nothing wrong with the current system created by our Constitution. The balanced membership of today's Tax Commission is a constitutional check and balance that should remain in place. Please vote against this misguided constitutional amendment.

Representative Joel K. Briscoe
Utah House of Representatives

REBUTTAL TO ARGUMENT AGAINST

As former Tax Commissioners, we believe that a review of historical documents will prove the naysayer's statement about 'big business' to be inaccurate. Such a review clearly proves that the existing language was intended to combat partisan politics from being practiced at the local government level. Tax Commissioners serve in an adjudicative role. In other words, they serve as judges in a People's Court for tax issues. If a judge in another Utah court were labeled as 'Republican' or 'Democrat', the people they exist to serve would have reason to question the impartiality of their judgment. Judges should not be branded with a label that puts a political party above their duty to properly interpret the law.

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CONSTITUTIONAL AMENDMENT A (CONTINUED)

REBUTTAL TO ARGUMENT AGAINST (CONTINUED)

The author of the anti-Amendment A argument makes a logical fallacy in stating that the purpose of the present structure is to create ideological balance, which will in turn help ensure proper assessments. To the contrary, and in our experience as former Tax Commissioners, ideological balance has nothing to do with correct assessments.

The critical requirements of an effective, successful Tax Commissioner are expertise in law, accounting, administration, valuation, and finance. Ideological “balance” does not ensure understanding of the issues. The Commission should be based in expertise, not party affiliation.

Val Oveson
Utah State Tax Commissioner, 1993-1998

Marc Johnson
Utah State Tax Commissioner, 2000-2012

Mark Buchi
Utah State Tax Commissioner, 1983-1986

COMPLETE TEXT OF CONSTITUTIONAL AMENDMENT A

Joint Resolution Regarding Qualifications of State Tax Commission Members
2014 General Session

Utah Constitution Sections Affected:
Amends:
Article XIII, Section 6

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

Section 1. It is proposed to amend Utah Constitution, Article XIII, Section 6, to read:

Article XIII, Section 6. [State Tax Commission.

(1) There shall be a State Tax Commission consisting of four members, [~~not more than two of whom may belong to the same political party~~] with qualifications as provided by statute.

(2) With the consent of the Senate, the Governor shall appoint the members of the State Tax Commission for such terms as may be provided by statute.

(3) The State Tax Commission shall:

(a) administer and supervise the State's tax laws;

(b) assess mines and public utilities and have such other powers of original assessment as the Legislature may provide by statute;

(c) adjust and equalize the valuation and assessment of property among the counties;

(d) as the Legislature provides by statute, review proposed bond issues, revise local tax levies, and equalize the assessment and valuation of property within the counties; and

(e) have other powers as may be provided by statute.

(4) Notwithstanding the powers granted to the State Tax Commission in this Constitution, the Legislature may by statute authorize any court established under Article VIII

to adjudicate, review, reconsider, or redetermine any matter decided by the State Tax Commission relating to revenue and taxation.

Section 2. Submittal to voters.

The lieutenant governor is directed to submit this proposed amendment to the voters of the state at the next regular general election in the manner provided by law.

Section 3. Effective date.

If the amendment proposed by this joint resolution is approved by a majority of those voting on it at the next regular general election, the amendment shall take effect on January 1, 2015.